

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RAPHAEL O. OBIORA

Respondent.

Case No. 2004-356

OAH No: L2006020672

DECISION AFTER NON-ADOPTION

On August 14, 2006, Deborah Myers, Administrative Law Judge, Office of Administrative Hearings, Los Angeles, State of California, heard this matter.

Complainant, Ruth Ann Terry, was represented by Gloria Barrios, Deputy Attorney General.

Respondent, Raphael Obiora (Respondent), appeared and represented himself.

Oral and documentary evidence was received. The parties stipulated to the following amendments at the administrative hearing:

(A) The Accusation's first cause for discipline contained in Pages 15, 16 and 17, as to Patient Numbers 11840527, 11847050, 11827854, and 118433331, was stricken and dismissed by agreement of the parties.

(B) The Accusation's third cause for discipline, Page 17 was dismissed by agreement of the parties.

After a review of the exhibits, the parties stipulated to keep the record open until August 31, 2006. The record was closed and the matter was submitted for decision.

Administrative Law Judge Deborah Myers issued her Proposed Decision on September 29, 2006. On December 19, 2006, the Board of Registered Nursing ("Board") issued a Notice of Nonadoption of the Proposed Decision. On February 9, 2007, the Board issued its Order Fixing Date for Submission of Written Argument. After having reviewed the administrative record including the transcript, exhibits, and written argument from both parties, the Board hereby renders the following decision in this matter.

FACTUAL FINDINGS

The Board makes the following Factual Findings:

1. The Accusation was made by Ruth Ann Terry (Complainant), Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, State of California (Board), acting in her official capacity.
2. On or about March 7, 1995, Respondent became licensed as a Registered Nurse under Registered Nursing License No. 509286. At all relevant times, the license was in full force and effect.
3. On June 22, 2004, the Board issued an Accusation against Respondent alleging that between December 19, 2000, and January 16, 2001, as to 19 patients at St. Vincent Medical Center, Respondent falsified and made grossly incorrect entries pertaining to controlled substances and dangerous drugs in hospital and patient records; obtained controlled substances by fraud, deceit, misrepresentation or subterfuge; and committed unprofessional conduct when he was under the influence of a controlled substance while on duty as a registered nurse. On November 17, 2005, the Board entered a default against Respondent and revoked his license. The Board set the default aside upon Respondent's request.
4. Respondent stipulated to and agreed that there was a factual basis for the first cause of action for discipline as to patients 1 through 15, and a factual basis for the second cause of action for discipline, at the administrative hearing.
5. "Demerol" is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(17). It is a narcotic analgesic used for moderate to severe pain and is a dangerous drug pursuant to Health and Safety Code section 4022.
6. "Dilaudid" is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(k). It is an opium derivative and is a dangerous drug pursuant to Health and Safety Code section 4022.
7. "Fentanyl" is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(8). It is a brand name for Sublimaze and a dangerous drug pursuant to Health and Safety Code section 4022.
8. "Morphine/Morphine Sulfate" is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(m). It is an opium derivative and a dangerous drug pursuant to Health and Safety Code section 4022.

9. Respondent admitted that he took medication from St. Vincent Medical Center (St. Vincent) for his own use. He did not accurately record when he withdrew the medication or when he administered it to the patients. Respondent did not properly record the controlled substance wastage.

10. More specifically, as to 15 St. Vincent patients between December 21, 2000 and January 16, 2001, Respondent removed dangerous drugs from the Pharmacy's Sur Med ICU (Narcotic) Dispensary and failed to document the administration of those drugs into the respective patients' Medication Administration Record (MAR) and the Nurse's Notes. In all cases, Respondent failed to record wastage or otherwise account for those dangerous drugs. In all cases, there was no physician's order for those dangerous drugs.

11. In this manner, Respondent withdrew the following amounts of dangerous drugs for these patients:

Patient 11880606	100 mg. of Demerol	1
Patient 11872876	225 mg. of Demerol	
Patient 11874724	375 mg. of Demerol	
Patient 11874526	125 mg. of Demerol	
Patient 11872801	300 mg. of Demerol	
Patient 11863800	475 mg. of Demerol	
Patient 197460310	75 mg. of Demerol	
Patient 11863693	725 mg. of Demerol	
Patient 11860020	300 mg. of Demerol	
Patient 11783321	675 mg. of Demerol	
	4 mg. of Dilaudid	
Patient 11846607	275 mg. of Demerol	
Patient 11853694	150 mg. of Demerol	
Patient 11846607	175 mg. of Demerol	
	100 mcg. amp. of Fentanyl	
Patient 11853694	150 mg. of Demerol	
Patient 11845765	150 mg. of Demerol	
Patient 11842267	200 mg. of Demerol	
Patient 11832516	100 mg. of Demerol	

12. As to 15 St. Vincent patients, between December 21, 2000, and January 16, 2001, Respondent committed acts of unprofessional conduct by fraudulently obtaining the dangerous drugs described in Factual Finding 12. He failed to record wastage and failed to account for these dangerous drugs.

13. On January 16, 2001, Respondent admitted to the St. Vincent staff that he took controlled substances for his own use. Respondent entered the Board's

¹ Milligram

diversion program but the Board terminated him from that program on December 19, 2001. Respondent stipulated that his termination was due to repeated positive drug test results for Demerol.

14. Respondent presented credible mitigating evidence. In 2001, Respondent experienced extreme stress when his parents in Nigeria fell ill and his wife gave birth to their son by a cesarean surgery. His father's stroke forced Respondent to become the sole supporter of his entire family. In response to this stress, Respondent began to divert medication for his own use, typically 200 mg. of Demerol at a time. There was no evidence that he sold the drugs for personal gain. Respondent's supervisor confronted him, and Respondent readily admitted to drug use. Although he entered the Board's drug diversion program, he testified he dropped out several months later due to the family financial pressures he felt. However, Respondent stipulated he was terminated from the program due to positive drug tests, which is a more credible explanation.

15. Respondent presented credible evidence of rehabilitation. Respondent admitted his drug problem to his supervisor when confronted. Respondent made an early but unsuccessful effort to become sober. Although he did not complete the six month drug program, he provided clean drug tests from May 31, 2001, to August 13, 2001. Respondent attended 12-step Narcotics Anonymous (NA) meetings for nurses daily from August 1, 2001, through August 31, 2001, providing written sign-in sheets signed by the meeting leader. Respondent's sobriety date was "when the incident happened" in 2001 and he stopped his drug use completely. There have been no complaints against Respondent since 2001, and no other positive drug tests. The passage of five years without further drug use is a significant step toward his rehabilitation.

16. As further evidence of rehabilitation, Respondent spoke of his religious life. He "learned a lesson from God" and is active in the Celestial Church of Christ in Los Angeles, serving a largely African-American population. He has acted as the leader of his parish for the last five years. Respondent volunteers approximately 15 hours a week of his time at church services and bible study.

17. As further proof of his rehabilitation, Respondent continues his long term commitment to his educational studies. A native of Nigeria, Respondent came to the United States in 1980 to study accounting. After several years at Southwest College and California State University, Los Angeles (CSULA), he altered his course of studies to become a nursing assistant, a licensed vocational nurse, and then a registered nurse. He attended Los Angeles Trade Tech for four years to complete his pre-requisites. He completed Southwest College's nursing program in two years in 1994. In 1998, Respondent enrolled in CSULA's Bachelor and Master's Program, and he has two to three semesters of studies left to complete that program.

18. Respondent works in the Intensive Care Unit (ICU). He is typically assigned to care for only one to two patients who are often on ventilators, have serious infections, and are prescribed multiple medications. Respondent has only worked for only one registry for the past two years, Advance Care Services, which is aware of the Accusation. Since Respondent was terminated from St. Vincent's, he has only worked through registries.

19. Respondent is the sole source of support for his family in the United States and in Nigeria. He provides for his wife, his five year old, and his aging father. Respondent testified that he no longer has the same issues of stress and pressure that spurred his drug problem as his father recovered from his stroke, his mother passed away, and his then newborn child is now school age. Respondent loves working as a registered nurse in the ICU and treats his patients like they are his family. Acknowledging that his prior drug use is a risk to the public, Respondent is willing to enter a drug rehabilitation program to keep his license, and he is willing to work restricted hours.

20. The cost of investigation and prosecution of this case was \$15,671.00. However, Respondent established a substantial economic hardship by virtue of his support of his nuclear and extended families. Therefore, one-half, or \$7,635.00 is considered to be reasonable. Complainant's cost recovery is limited by the holding of *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.App.4 32.

LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Board makes the following legal conclusions:

1. Cause exists pursuant to Business and Professions Code section 2761, subdivision (a), and section 2762, subdivision (e), to revoke or suspend Respondent's Registered Nurse license Number 509286 on the grounds of unprofessional conduct for falsifying and making grossly incorrect entries in hospital and patient records pertaining to controlled substances, by reason of Factual Findings 1 through 13, inclusive.

2. Cause exists pursuant to Business and Professions Code section 2761, subdivision (a), and section 2762, subdivision (a), to revoke or suspend Respondent's Registered Nurse license Number 509286 on the grounds of unprofessional conduct for having fraudulently obtained controlled substances, by reason of Factual Findings 1 through 13, inclusive.

3. Respondent presented credible mitigating evidence regarding his actions. Respondent experienced severe stress when his parents in Nigeria fell ill, his wife had a cesarean surgery, and Respondent became a father. Respondent became

the sole supporter of his parents, wife and child. In response to this emotional stress, Respondent diverted medication from his patients for his own use, typically 200 mg. of Demerol at a time. When Respondent's supervisor confronted him, he quickly admitted to drug use and enrolled in the Board's diversion program. However, his enrollment and participation was short-lived.

4. Respondent presented credible evidence of some rehabilitation. He admitted his drug use to his supervisor when confronted, and he made an early but unsuccessful effort toward completing the Board's six month drug program. He did provide clean drug tests from May 31, 2001 to August 13, 2001 and attended a 12-step Narcotics Anonymous (NA) meeting for nurses daily from August 1, 2001 through August 31, 2001.

5. More significantly, Respondent has not used drugs in five years. He has been sober since 2001 when he stopped his drug use completely. There have been no complaints against Respondent since 2001. Respondent is active in the Celestial Church of Christ in Los Angeles, has acted as the leader of his parish for the last five years, and volunteers approximately 15 hours a week of his time at church services and bible study. Respondent is committed to his educational training and nursing studies at CSULA's Bachelor and Master's Program, and he has two to three semesters of studies left to complete the program he began in 1998. He continues to be the sole source of support for his family in the United States and in Nigeria, although he does not have the same pressures that caused him to use drugs as set forth in Factual Finding 19. Respondent acknowledges his former drug problem is a risk and is willing to enter a drug rehabilitation program to keep his license.

In order to protect the public and ensure that Respondent's drug use was not related to a mental or physical problem, the Board is adding two conditions to his probation, to require Respondent to undergo a physical examination and mental health examination. Additionally, due to Respondent's past drug abuse problems, the Board believes that he should not work for a nurse's registry unless the Respondent's probation monitor determines at a later date that employment with a nurse's registry is appropriate.

6. Pursuant to Business and Professions Code section 125.3, Complainant is entitled to recover the reasonable costs of investigation and prosecution of this case, which are \$7,635.00, by reason of Factual Finding 20 and Legal Conclusions 1 and 2. Zuckerman, supra, requires the Board to consider the licensee's ability to make payments. Although Respondent diverted a large amount of drugs for his personal use and the Board's full investigation is justified, Respondent offered credible evidence of his economic hardship, which under Zuckerman, must be considered.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's Registered Nurse License Number 509286 is revoked. However, the revocation is stayed and Respondent is placed on probation for five years on the following conditions.

1. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

2. Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

3. If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

4. Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension. Upon successful completion of probation, respondent's license shall be fully restored.

5. Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

6. Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when he or she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

7. Respondent shall provide a list of all states and territories where he or she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

8. Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

9. Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

10. Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

11. For purposes of compliance with condition number 10, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

12. The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

13. If Respondent has not complied with condition number 10 during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

14. Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

15. Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

16. Respondent shall notify the Board in writing within seventy-two (72) hours after he or she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

17. Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

18. Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

19. Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.
- (d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by respondent with or without respondent present.

20. Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool unless otherwise approved by the Board.

21. Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

22. Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

23. Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

24. Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

25. If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

26. Respondent, at his or her own expense, shall enroll and successfully complete all nursing refresher courses, orientation to health care system courses, and nursing documentation courses relevant to the practice of registered nursing recommended by the Board no later than six months prior to the end of his or her probationary term.

27. Respondent shall obtain prior approval from the Board before enrolling in the course(s) identified pursuant to condition number 26. Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

28. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$7,635.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

29. If Respondent has not complied with condition number 28 during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

30. If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline of revocation of Respondent's license.

31. If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

32. During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

33. Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

34. Respondent, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

35. Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

36. Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

37. Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

38. Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he/she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and respondent shall be considered in violation of probation.

39. In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

40. If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

41. If Respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

42. Respondent, at his/her expense, shall participate in an on-going counseling program until such time as the Board releases him/her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

43. Within 45 days of the effective date of this decision, respondent, at his/her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified respondent that a medical determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

44. Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his/her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

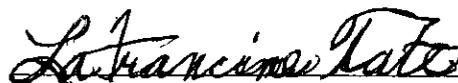
If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

IT IS SO ORDERED.

The effective date of this decision is June 11, 2007.

Dated: May 9, 2007

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


LaFrancine Tate
Board President

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2004-356

11 RAPHAEL O. OBIORA, RN
12 4295 Via Arbolada #207
13 Los Angeles, CA 90042

A C C U S A T I O N

14 Registered Nursing License No. 509286

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about March 7, 1995, the Board of Registered Nursing issued
22 Registered Nursing License Number 509286 to Raphael O. Obiora, RN (Respondent). The
23 Registered Nursing License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on November 30, 2004, unless renewed.

25
26 JURISDICTION

27 3. This Accusation is brought before the Board of Registered Nursing
28 (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 states, in pertinent part:

3 "Every certificate holder or licensee, including licensees holding temporary
4 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided
5 in this article [article 3, commencing with section 2750]. As used in this article, 'license'
6 includes certificate, registration, or any other authorization to engage in the practice regulated by
7 this chapter [chapter 6, commencing with section 2700]."

8 5. Section 2764 states:

9 "The lapsing or suspension of a license by operation of law or by order or decision
10 of the board or a court of law, or the voluntary suspension of a license by a licentiate shall not
11 deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding
12 against such license, or to render a decision suspending or revoking such license."

13 6. Section 2811, subdivision (b), provides in pertinent part, that each license
14 not renewed in accordance with that section shall expire, but may within a period of eight years
15 thereafter be reinstated.

16 7. Section 2761 states:

17 "The board may take disciplinary action against a certified or licensed nurse or
18 deny an application for a certificate or license for any of the following:

19 "(a) Unprofessional conduct,

20

21 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
22 abetting the violating of, or conspiring to violate any provision or term of this chapter [chapter 6,
23 commencing with section 2700] or regulations adopted pursuant to it.

24

25 8. Section 2762 states:

26 "In addition to other acts constituting unprofessional conduct within the meaning
27 of this chapter [chapter 6, commencing with section 2700], it is unprofessional conduct for a
28 person licensed under this chapter to do any of the following:

1 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
2 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
3 or administer to another, any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
5 defined in Section 4022.

6 "(b) Use any controlled substance as defined in Division 10 (commencing with
7 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
8 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
9 injurious to himself or herself, any other person, or the public or to the extent that such use
10 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
11 license."

12

13 "(e) Falsify, or making grossly incorrect, grossly inconsistent, or unintelligible
14 entries in any hospital, patient, or other record pertaining to the substances described in
15 subdivision(a) of this section."

16 9. Section 2770.11 states:

17 "(a) Each registered nurse who requests participation in a diversion program shall
18 agree to cooperate with the rehabilitation program designed by a committee. Any failure to
19 comply with the provisions of a rehabilitation program may result in termination of the registered
20 nurse's participation in a program. The name and license number of a registered nurse who is
21 terminated for any reason, other than successful completion, shall be reported to the board's
22 enforcement program.

23 "(b) If a committee determines that a registered nurse, who is denied admission
24 into the program or terminated from the program, presents a threat to the public or his or her own
25 health and safety, the committee shall report the name and license number, along with a copy of
26 all diversion records for that registered nurse, to the board's enforcement program. The board
27 may use any of the records it receives under this subdivision in any disciplinary proceeding."

28 10. California Code of Regulations, title 16, section 1443.5 states:

1 "A registered nurse shall be considered to be competent when he/she consistently
2 demonstrates the ability to transfer scientific knowledge from social, biological and physical
3 sciences in applying the nursing process, as follows:

4 "(1) Formulates a nursing diagnosis through observation of the client's physical
5 condition and behavior, and through interpretation of information obtained from the client and
6 others, including the health team.

7 "(2) Formulates a care plan, in collaboration with the client, which ensures that
8 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
9 protection, and for disease prevention and restorative measures.

10 "(3) Performs skills essential to the kind of nursing action to be taken, explains
11 the health treatment to the client and family and teaches the client and family how to care for the
12 client's health needs.

13 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
14 subordinates and on the preparation and capability needed in the tasks to be delegated, and
15 effectively supervises nursing care being given by subordinates.

16 "(5) Evaluates the effectiveness of the care plan through observation of the
17 client's physical condition and behavior, signs and symptoms of illness, and reactions to
18 treatment and through communication with the client and health team members, and modifies the
19 plan as needed.

20 "(6) Acts as the client's advocate, as circumstances require, by initiating action to
21 improve health care or to change decisions or activities which are against the interests or wishes
22 of the client, and by giving the client the opportunity to make informed decisions about health
23 care before it is provided."

24 11. Health and Safety Code section 11170 provides: "no person shall
25 prescribe, administer, or furnish a controlled substance for himself."

26 12. Health and Safety Code section 11173 states:

27 "(a) No person shall obtain or attempt to obtain controlled substances, or procure
28 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,

1 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

2 “(b) No person shall make a false statement in any prescription, order, report or
3 record, required by the division.”

4 13. Business and Professions Code section 118, subdivision (b) states:

5 “The suspension, expiration, or forfeiture by operation of law of a license issued
6 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
7 by order of a court of law, or its surrender without the written consent of the board, shall not,
8 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
9 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
10 ground provided by law or to enter an order suspending or revoking the license or otherwise
11 taking disciplinary action against the licensee on any such ground.”

12 14. Section 125.3, subdivision (a), states, in pertinent part:

13 “Except as otherwise provided by law, in any order issued in resolution of a
14 disciplinary proceeding before any board within the department . . . the board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations
16 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.”

18 15. CONTROLLED SUBSTANCES

19 a. “Demerol”, a brand of meperidine hydrochloride, a derivative of pethidine,
20 is a Schedule II controlled substance as designated by Health and Safety Code section
21 11055(c)(16) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

22 b. “Dilaudid”, Opium derivative, is a Schedule II controlled substance as
23 designated by Health and Safety Code section 11055(b)(1)(k) and is categorized as a dangerous
24 drug pursuant to section 4022 of the Code.

25 c. “Fentanyl”, brand for Sublimaze, is a Scheduled II controlled substance
26 pursuant to Health and Safety Code Section 11055(c)(8) and is categorized as a dangerous drug
27 pursuant to section 4022 of the Code.

28 d. “Morphine/Morphine Sulfate”, is a Schedule II controlled substance

1 pursuant to Health and Safety Code Section 11055(b)(1)(M) and is categorized as a dangerous
2 drug pursuant to Business and Professions Code section 4022.

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Falsified Hospital Records)

5 16. Respondent is subject to disciplinary action under section 2761,
6 subdivision (a) of the Code on the grounds of unprofessional conduct as defined in section 2762,
7 subdivision (e) of the Code, for violation Health and Safety Code section 11173, subdivision (b),
8 in that while on duty as a registered nurse at St. Vincent Medical Center in Los Angeles,
9 California, Respondent falsified and made grossly incorrect entries in hospital records pertaining
10 to controlled substances and dangerous drug in the following respects:

11 **Patient 11880606**

12 a. On January 16, 2001, at 0905 hours, Respondent removed Demerol
13 100mg. from the Pharmacy's Sur Med ICU (Narc) dispensary (Sur Med) for patient 11880606,
14 but failed to document the administration in the patient's Medication Administration Record
15 (MAR) and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
16 Demerol 100mg. No physician's order was given for this administration.

17 **Patient 11872876**

18 a. On January 16, 2001, at 1156 hours, Respondent removed Demerol 75mg.
19 from the Sur Med for patient 11872876, but failed to document the administration in the patient's
20 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
21 Demerol 75mg. No physician's order was given for this administration.

22 b. On January 13, 2001, at 1640 hours, Respondent removed Demerol 75mg.
23 from the Sur Med for patient 11872876, but failed to document the administration in the patient's
24 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
25 Demerol 75mg. No physician's order was given for this administration.

26 c. On January 13, 2001, at 1718 hours, Respondent removed Demerol 75mg.
27 from the Sur Med for patient 11872876, but failed to document the administration in the patient's
28 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for

1 Demerol 75mg. No physician's order was given for this administration.

2 Patient 11874724

3 a. On January 13, 2001, at 0919 hours, Respondent removed Demerol 75mg.
4 from the Sur Med for patient 11874724, but failed to document the administration in the patient's
5 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
6 Demerol 75mg. No physician's order was given for this administration.

7 b. On January 13, 2001, at 1037 hours, Respondent removed Demerol 100
8 mg. from the Sur Med for patient 11874724, but failed to document the administration in the
9 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
10 for Demerol 100 mg. No physician's order was given for this medication.

11 c. On January 13, 2001, at 1250 hours, Respondent removed Demerol 100
12 mg. from the Sur Med for patient 11874724, but failed to document the administration in the
13 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
14 for Demerol 100 mg. No physician's order was given for this medication.

15 d. On January 13, 2001, at 1627 hours, Respondent removed Demerol 100
16 mg. from the Sur Med for patient 11874724, but failed to document the administration in the
17 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
18 for Demerol 100 mg. No physician's order was given for this medication

19 Patient 11874526

20 a. On January 10, 2001, at 1726 hours, Respondent removed Demerol 75 mg.
21 from the Sur Med for patient 11874526, but failed to document the administration in the patient's
22 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
23 Demerol 75mg. No physician's order was given for this administration.

24 b. On January 10, 2001, at 1830 hours, Respondent removed Demerol 50 mg.
25 from the Sur Med for patient 11874526, but failed to document the administration in the patient's
26 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
27 Demerol 50mg. No physician's order was given for this administration.

28 ///

Patient 11872801

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2 a. On January 10, 2001, at 0920 hours, Respondent removed Demerol 75 mg.
3 from the Sur Med for patient 11872801, but failed to document the administration in the patient's
4 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
5 Demerol 75mg. No physician's order was given for this administration.

6 b. On January 10, 2001, at 1051 hours, Respondent removed Demerol 75 mg.
7 from the Sur Med for patient 11872801, but failed to document the administration in the patient's
8 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
9 Demerol 75mg. No physician's order was given for this administration.

10 c. On January 10, 2001, at 1240 hours, Respondent removed Demerol 75 mg.
11 from the Sur Med for patient 11872801, but failed to document the administration in the patient's
12 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
13 Demerol 75mg. No physician's order was given for this hours, Respondent removed Demerol 75
14 mg. from the Sur Med for patient 11872801, but administration.

15 d. On January 10, 2001, at 1459 hours, Respondent removed Demerol 75mg.
16 from the Sur Med for patient 11872801, but failed to document the administration in the patient's
17 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
18 Demerol 75mg. No physician's order was given for this administration.

Patient 11863800

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20 a. On January 5, 2001, at 1045 hours, Respondent removed Demerol 75mg
21 from the Sur Med for patient 11863800, but failed to document the administration in the patient's
22 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
23 Demerol 75mg. No physician's order was given for this administration.

24 b. On January 5, 2001, at 1439 hours, Respondent removed Demerol 75mg
25 from the Sur Med for patient 11863800, but failed to document the administration in the patient's
26 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
27 Demerol 75mg. No physician's order was given for this administration.

28 c. On January 5, 2001, at 1815 hours, Respondent removed Demerol 75mg

1 from the Sur Med for patient 11863800, but failed to document the administration in the patient's
2 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
3 Demerol 75mg. No physician's order was given for this administration.

4 d. On January 5, 2001, at 1528 hours, Respondent removed Demerol 50mg
5 from the Sur Med for patient 11863800, but failed to document the administration in the patient's
6 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
7 Demerol 75mg. No physician's order was given for this administration.

8 e. On January 5, 2001, at 1720 hours, Respondent removed Demerol 100mg
9 from the Sur Med for patient 11863800, but failed to document the administration in the patient's
10 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
11 Demerol 100mg. No physician's order was given for this administration.

12 f. On January 5, 2001, at 1939 hours, Respondent removed Demerol 100mg
13 from the Sur Med for patient 11863800, but failed to document the administration in the patient's
14 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
15 Demerol 100mg. No physician's order was given for this administration.

16 **Patient 197460310**

17 a. On January 5, 2001, at 1138 hours, Respondent removed Demerol 75mg.
18 from the Sur Med for patient 197460310, but failed to document the administration in the
19 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
20 for Demerol 75mg. No physician's order was given for this administration.

21 **Patient 11863693**

22 a. On January 3, 2001, at 1117 hours, Respondent removed Demerol 75mg.
23 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
24 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
25 Demerol 75mg. No physician's order was given for this administration.

26 b. On January 3, 2001, at 1431 hours, Respondent removed Demerol 100mg.
27 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
28 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for

1 Demerol 100mg. No physician's order was given for this administration.

2 c. On January 3, 2001, at 1642 hours, Respondent removed Demerol 100mg.
3 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
4 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
5 Demerol 100mg. No physician's order was given for this administration.

6 d. On January 3, 2001, at 1840 hours, Respondent removed Demerol 75mg.
7 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
8 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
9 Demerol 75mg. No physician's order was given for this administration.

10 e. On January 3, 2001, at 1952 hours, Respondent removed Demerol 50mg.
11 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
12 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
13 Demerol 50mg. No physician's order was given for this administration.

14 f. On January 2, 2001, at 1019 hours, Respondent removed Demerol 75mg.
15 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
16 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
17 Demerol 75mg. No physician's order was given for this administration.

18 g. On January 2, 2001, at 1251 hours, Respondent removed Demerol 75mg.
19 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
20 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
21 Demerol 75mg. No physician's order was given for this administration.

22 h. On January 2, 2001, at 1903 hours, Respondent removed Demerol 75mg.
23 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
24 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
25 Demerol 75mg. No physician's order was given for this administration.

26 i. On January 2, 2001, at 1818 hours, Respondent removed Demerol 100mg.
27 from the Sur Med for patient 11863693, but failed to document the administration in the patient's
28 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for

1 Demerol 100mg. No physician's order was given for this administration.

2 **Patient 11860020**

3 a. On January 3, 2001, at 0852 hours, Respondent removed Demerol 75mg.
4 from the Sur Med for patient 11860020, but failed to document the administration in the patient's
5 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
6 Demerol 75mg. No physician's order was given for this administration.

7 b. On January 3, 2001, at 1333 hours, Respondent removed Demerol 75mg.
8 from the Sur Med for patient 11860020, but failed to document the administration in the patient's
9 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
10 Demerol 75mg. No physician's order was given for this administration.

11 c. On January 2, 2001, at 0910 hours, Respondent removed Demerol 75mg.
12 from the Sur Med for patient 11860020, but failed to document the administration in the patient's
13 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
14 Demerol 75mg. No physician's order was given for this administration.

15 d. On January 2, 2001, at 1557 hours, Respondent removed Demerol 75mg.
16 from the Sur Med for patient 11860020, but failed to document the administration in the patient's
17 MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for
18 Demerol 75mg. No physician's order was given for this administration.

19 **Patient 11783321**

20 a. On December 28, 2000, at 0852 hours, Respondent removed Demerol
21 75mg. from the Sur Med for patient 11783321, but failed to document the administration in the
22 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
23 for Demerol 75mg. No physician's order was given for this administration.

24 b. On December 28, 2000, at 1007 hours, Respondent removed Demerol
25 75mg. from the Sur Med for patient 11783321, but failed to document the administration in the
26 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
27 for Demerol 75mg. No physician's order was given for this administration.

28 c. On December 28, 2000, at 1100 hours, Respondent removed Demerol

- 1 75mg. from the Sur Med for patient 11783321, but failed to document the administration in the
2 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
3 for Demerol 75mg. No physician's order was given for this administration.
- 4 d. On December 28, 2000, at 1208 hours, Respondent removed Demerol
5 75mg. from the Sur Med for patient 11783321, but failed to document the administration in the
6 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
7 for Demerol 75mg. No physician's order was given for this administration.
- 8 e. On December 28, 2000, at 1446 hours, Respondent removed Demerol
9 75mg. from the Sur Med for patient 11783321, but failed to document the administration in the
10 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
11 for Demerol 75mg. No physician's order was given for this administration.
- 12 f. On December 26, 2000, at 0909 hours, Respondent removed Demerol
13 75mg. from the Sur Med for patient 11783321, but failed to document the administration in the
14 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
15 for Demerol 75mg. No physician's order was given for this administration.
- 16 g. On December 26, 2000, at 1113 hours, Respondent removed Demerol
17 75mg. from the Sur Med for patient 11783321, but failed to document the administration in the
18 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
19 for Demerol 75mg. No physician's order was given for this administration.
- 20 h. On December 26, 2001, at 1146 hours, Respondent removed Dilaudid
21 2mg. from the Sur Med for patient 11783321, but failed to document the administration in the
22 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
23 for Dilaudid 2mg. No physician's order was given for this administration.
- 24 i. On December 26, 2001, at 1823 hours, Respondent removed Dilaudid
25 2mg. from the Sur Med for patient 11783321, but failed to document the administration in the
26 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
27 for Dilaudid 2mg. No physician's order was given for this administration.
- 28 j. On December 26, 2000, at 1830 hours, Respondent removed Demerol

1 50mg. from the Sur Med for patient 11783321, but failed to document the administration in the
2 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
3 for Demerol 50mg. No physician's order was given for this administration.

4 k. On December 26, 2000, at 1836 hours, Respondent removed Demerol
5 50mg. from the Sur Med for patient 11783321, but failed to document the administration in the
6 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
7 for Demerol 50mg. No physician's order was given for this administration.

8 l. On December 26, 2000, at 1954 hours, Respondent removed Demerol
9 50mg. from the Sur Med for patient 11783321, but failed to document the administration in the
10 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
11 for Demerol 50mg. No physician's order was given for this administration.

12 **Patient 11846607**

13 a. On December 28, 2000, at 1928 hours, Respondent removed Demerol
14 75mg. from the Sur Med for patient 11846607, but failed to document the administration in the
15 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise
16 account for Demerol 75mg. No physician's order was given for this administration.

17 b. On December 28, 2000, at 1857 hours, Respondent removed Demerol
18 100mg. from the Sur Med for patient 11846607, but failed to document the administration in the
19 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise
20 account for Demerol 100mg. No physician's order was given for this administration.

21 c. On December 28, 2000, at 1927 hours, Respondent removed Fentanyl
22 100mcg amp. from the Sur Med for patient 11846607, but failed to document the administration
23 in the patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise
24 account for Demerol 100mg. No physician's order was given for this administration.

25 **Patient 11853694**

26 a. On December 26, 2000, at 1508 hours, Respondent removed Demerol
27 75mg. from the Sur Med for patient 11853694, but failed to document the administration in the
28 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account

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Patient 11832516

a. On December 21, 2000, at 1911 hours, Respondent removed Demerol 50mg. from the Sur Med for patient 11832516, but failed to document the administration in the patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for Demerol 50mg. No physician's order was given for this administration.

b. On December 21, 2000, at 1941 hours, Respondent removed Demerol 50mg. from the Sur Med for patient 11832516, but failed to document the administration in the patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for Demerol 50mg. No physician's order was given for this administration.

Patient 11840527

a. On December 21, 2000, at 1058 hours, Respondent removed Demerol 75mg. from the Sur Med for patient 11840527, but failed to document the administration in the patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for Demerol 75mg. No physician's order was given for this administration.

Patient 11847050

a. On December 19, 2000, at 1936 hours, Respondent removed Demerol 50mg. from the Sur Med for patient 11847050, but failed to document the administration in the patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for Demerol 50mg. No physician's order was given for this administration.

b. On December 19, 2000, at 1903 hours, Respondent removed Demerol 75mg. from the Sur Med for patient 11847050, but failed to document the administration in the patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for Demerol 75mg. No physician's order was given for this administration.

Patient 11827854

a. On December 19, 2000, at 1716 hours, Respondent removed Demerol 75mg. from the Sur Med for patient 11827854, but failed to document the administration in the patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account for Demerol 75mg. No physician's order was given for this administration.

Patient 11843331

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2 a. On December 19, 2000, at 1437 hours, Respondent removed Demerol
3 50mg. from the Sur Med for patient 11843331, but failed to document the administration in the
4 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
5 for Demerol 50mg. No physician's order was given for this administration.

6 b. On December 19, 2000, at 1213 hours, Respondent removed Demerol
7 50mg. from the Sur Med for patient 11843331, but failed to document the administration in the
8 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
9 for Demerol 50mg. No physician's order was given for this administration.

10 c. On December 19, 2000, at 1002 hours, Respondent removed Demerol
11 75mg. from the Sur Med for patient 11843331, but failed to document the administration in the
12 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
13 for Demerol 75mg. No physician's order was given for this administration.

14 d. On December 19, 2000, at 0913 hours, Respondent removed Demerol
15 100mg. from the Sur Med for patient 11843331, but failed to document the administration in the
16 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
17 for Demerol 1005mg. No physician's order was given for this administration.

18 e. On December 19, 2000, at 1142 hours, Respondent removed Demerol
19 100mg. from the Sur Med for patient 11843331, but failed to document the administration in the
20 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
21 for Demerol 100mg. No physician's order was given for this administration.

22 f. On December 19, 2000, at 1410 hours, Respondent removed Demerol
23 100mg. from the Sur Med for patient 11843331, but failed to document the administration in the
24 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account
25 for Demerol 100mg. No physician's order was given for this administration.

26 g. On December 19, 2000, at 1622 hours, Respondent removed Demerol
27 100mg. from the Sur Med for patient 11843331, but failed to document the administration in the
28 patient's MAR and in the Nurse's Notes. Respondent failed to record waste or otherwise account

1 for Demerol 100mg. No physician's order was given for this administration.

2 SECOND CAUSE FOR DISCIPLINE

3 (Obtain or Possess Controlled Substances By Fraud or Deceit)

4 17. Respondent is subject to disciplinary action under section 2761,
5 subdivision (a) of the Code on the grounds of unprofessional conduct as defined in section 2762,
6 subdivision (a) of the Code, for violation Health and Safety Code sections 11171 and 11173,
7 subdivision (a), in that while on duty as a registered nurse at St. Vincent Medical Center in Los
8 Angeles, California, Respondent obtained Demerol, Morphine, Dilaudid and Fentanyl, controlled
9 substances, by fraud, deceit, misrepresentation or subterfuge as follows:

10 a. From on or about December 19, 2000 to on or about January 16, 2001,
11 Respondent failed to record wastage or otherwise account for approximately 5,050 mg. of
12 Demerol, 4mg. of Dilaudid and 110 mcg amp. of Fentanyl, as more fully set forth in paragraph
13 16, above.

14 b. On or about January 16, 2001, Respondent, after being confronted by staff
15 members of St. Vincent Medical Center, admitted to taking controlled substances from the
16 hospital for his own use.

17 c. On or about December 19, 2001, the Board terminated Respondent from
18 participation in the Diversion program due to repeated positive test results for the use of
19 Demerol.

20 THIRD CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct)

22 18. Respondent is subject to disciplinary action under section 2761,
23 subdivision (a) of the Code on the grounds of unprofessional conduct in he was under the
24 influence of a controlled substance while on duty as a registered nurse at St. Vincent Medical
25 Center in Los Angeles, California. Respondent admitted to taking Demerol during his work
26 shift.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nursing License No. 509286, issued to Raphael O. Obiora, RN;

2. Ordering Raphael O. Obiora, RN to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 6/22/04


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant